

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
NO. 1 CAPITOL DISTRICT BUILDING  
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HONOLULU, HAWAII 96813  
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EMAIL: oip@hawaii.gov

To: House Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: March 27, 2015, 3:00 p.m.  
State Capitol, Conference Room 325

Re: Testimony on S.B. No. 419, S.D. 2  
Relating to Neighborhood Boards

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Thank you for the opportunity to submit testimony on this bill, which would allow neighborhood board members to attend meetings open to the public under certain conditions. The Office of Information Practices (“OIP”) takes no position on the substance of this bill, and believes it is a policy question for the Legislature to resolve whether neighborhood board members should have greater freedom than other Sunshine Law board members to attend meetings or presentations without prior public notice or subsequent reporting.

OIP notes that neighborhood boards serve as a formal channel to pass on neighborhood sentiment regarding the issues within their jurisdiction, over which they have only advisory power, to the boards or departments that do have the power to make binding decisions on those issues. This bill would give neighborhood board members a great deal of freedom to attend and discuss neighborhood board business at meetings or presentations open to the public, without prior public notice, subsequent reporting, or any requirement that the meetings be held in or near the relevant neighborhood or any limitation on their frequency. The bill does require that the meetings or presentations be free, open to the public, and not

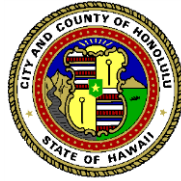
specifically and exclusively organized for neighborhood board members; and further requires that those members not make a commitment to vote on issues discussed.

In summary, this bill would give a quorum or more of neighborhood board members the ability to discuss board business at a gathering that, while theoretically public, may not have been previously advertised and may not be reported at a subsequent neighborhood board meeting, and would represent a significant exception to the Sunshine Law's usual requirements. Given the purely advisory role of the neighborhood boards, however, the Legislature may find as a policy matter that it is appropriate to create such a broad exception specifically for neighborhood board members, in order to facilitate their attendance at other meetings or presentations where neighborhood issues are discussed. OIP therefore takes no position on this bill.

Thank you for the opportunity to testify.

**NEIGHBORHOOD COMMISSION OFFICE  
CITY AND COUNTY OF HONOLULU**

530 SOUTH KING STREET, ROOM 406 \* HONOLULU, HAWAII 96813  
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KIRK CALDWELL  
MAYOR

NICOLE A. VELASCO  
EXECUTIVE SECRETARY

TESTIMONY OF NICOLE A. VELASCO,  
EXECUTIVE SECRETARY OF THE NEIGHBORHOOD COMMISSION,  
TO THE HOUSE COMMITTEE ON JUDICIARY  
THE TWENTY-EIGHTH LEGISLATURE REGULAR SESSION OF 2015

Friday, March 27, 2015  
3:00 P.M., Room 325  
Hawaii State Capitol

Testimony on S.B. No. 419 SD2, RELATING TO NEIGHBORHOOD BOARDS

Dear Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

I am Nicole A. Velasco, Executive Secretary of the Neighborhood Commission, writing in **STRONG SUPPORT** of S.B. No. 419 SD2 that allows neighborhood board members to attend certain meetings under certain circumstances.

S.B. No. 419 SD2 creates a new permitted interaction for neighborhood board members that would allow more than a quorum of members to attend a meeting or event of another entity that is free, open to the public, and does not require registration to attend. Examples of such a meeting or event include but are not limited to a district town hall, a city council meeting, and an event designed to inform community stakeholders.

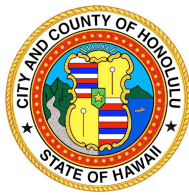
We ask the committee to clarify the intent of this measure by including the following amendment:

**[§92-82] Permitted interactions of neighborhood board members.** (a) Without limitation on the number of members, neighborhood board members may attend meetings or presentations on matters relating to official board business that are open to the public and do not charge a fee or require registration; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the neighborhood board and that no member makes a commitment to vote on any of the issues discussed.

This measure is the result of consistent and widespread complaints regarding the inability of neighborhood board members to attend informational events due to the effects of the Sunshine Law on neighborhood boards, which remain purely advisory in nature and are disallowed from taking any legislative action. At present, the Sunshine Law currently restricts to less than a quorum the attendance of neighborhood board members at free informational events that are open to the public. Despite the mission of the Neighborhood Board system, current state law excludes many board members who would like to attend informational meetings.

S.B. No. 419 SD2 will bolster participation of neighborhood board members at a time when civic engagement matters most.

Thank you for your consideration and this opportunity to testify.



## HAWAII KAI NEIGHBORHOOD BOARD

**GREG KNUDSEN**

At-Large  
Chairperson

**ELIZABETH REILLY**

At-Large  
Vice Chairperson

**RENÉ GARVIN**

At-Large  
Secretary

**MAXINE RUTKOWSKI**

Subdistrict #4  
Treasurer

**NATALIE IWASA**

At-Large

**ROBERT CLARK**

Subdistrict #1

**MARIAN GREY**

Subdistrict #2

**CARL MAKINO**

Subdistrict #3

**Vacant**

Subdistrict #5

**HERB SCHREINER**

Subdistrict #6

**AMY MONK**

Subdistrict #7

**Vacant**

Subdistrict #8

**LIZA LOCKARD**

Subdistrict #9

**ROBERTA MAYOR**

Subdistrict #10

**PAIGE ALTONN**

Subdistrict #11

Hawaii Kai  
Neighborhood Board No. 1  
c/o Neighborhood Commission  
530 So. King St., Rm. 406  
Honolulu, Hawaii 96813  
Phone: (808) 768-3710  
Fax: (808) 768-3711

Neighborhood Commission:  
[www.honolulu.gov/nco](http://www.honolulu.gov/nco)

Hawaii Kai Neighborhood  
Board meets the last Tuesday  
of every month (except Dec.),  
7 p.m., Hahaione Elementary  
School cafeteria. The public is  
welcome to attend.

**HOUSE COMMITTEE ON JUDICIARY**

Friday, March 27, 2015, 3:00 p.m.  
State Capitol, Room 325

Representative Karl Rhoads, Chair  
Representative Joy San Buenaventura, Vice Chair

**Testimony in Support of SB419, SD2 – Relating to Neighborhood Boards**

The Hawaii Kai Neighborhood Board on February 24, 2015, voted unanimously to join the Neighborhood Commission in its support of SB419, which allows neighborhood board members to attend certain meetings under certain circumstances.

Neighborhood boards are grassroots, community-based, representative bodies. To effectively serve their constituents, members must have unrestrained ability to participate in informational community activities and events that educate them on issues of concern.

Under current rules, a majority of neighborhood board members are not even able to attend town hall meetings organized by the Mayor's Office in their own communities. Only seven members, or one less than a quorum for our 15-member board, could attend such a meeting while eight would not be allowed. This works against the purpose and intent of neighborhood boards as elected, representative community organizations.

Neighborhood boards are advisory and can only express recommendations. Our meetings are subject to advance posting, open discussion, and open voting provisions of the Sunshine Law. While SB419 SD2 allows unrestricted participation by board members in informational community events, it continues to prevent members from making vote commitments outside of our public meetings.

The Hawaii Kai Neighborhood Board urges the Committee on Judiciary and Labor and all legislators to support and approve SB419, SD2. Mahalo.

Aloha,

  
Greg Knudsen, Chairperson

1205 Kaeleku Street  
Honolulu, Hawaii 96825  
(808) 395-3725, 224-0790  
knudsen123@gmail.com





**WAIKIKI NEIGHBORHOOD BOARD NO. 9**

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 406 • HONOLULU, HAWAII, 96813  
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: <http://www.honolulu.gov>

**March 25, 2015**

**To: Representative Karl Rhodes and Committee**

**Subject: Support of SB419**

**Aloha,**

**On February 10, 2015 the Waikiki Neighborhood Board considered and supported SB419 by a vote of 14-0-0 at our regular meeting.**

**The Waikiki Neighborhood Board supports the testimony of Neighborhood Commission Executive Secretary Nicole Velasco that this change to the Sunshine Law will allow members of the Waikiki Neighborhood Board to better represent the Waikiki Neighborhood.**

**In the past we have had only a few moments at a board meeting for the complete 17 member board to consider projects that reflect multimillion dollars in spending and major construction that impacts our community. Many of the developers of these projects hold community meetings that give our residents the ability to take the in-depth look at a project not possible at our board meetings. Currently we must closely monitor how many board members attend these meetings and I have left at least two meetings when we achieved a quorum of board members attending.**

**Adoption of this change will not degrade the transparency of the Neighborhood Board System. Agendas will still have to be posted as required by the Neighborhood Plan and HRS 92, no item not on an agenda can be voted on and each member will still have to maintain the personal integrity that he/she has sworn to uphold.**

**Your support of this measure will be greatly appreciated,**

  
**Robert J. Finley**  
**Chair**







49 South Hotel Street, Room 314 | Honolulu, HI 96813  
[www.lwv-hawaii.com](http://www.lwv-hawaii.com) | 808.531.7448 | [voters@lwvhawaii.com](mailto:voters@lwvhawaii.com)

HOUSE COMMITTEE ON JUDICIARY  
Hearing Scheduled 3 pm Friday March 27, 2015, House Conference Room 325  
SB 419, SD 2, RELATING TO OPEN GOVERNMENT  
TESTIMONY  
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Karl Rhodes, Vice-Chair Joy A. San Buenaventura, and Committee Members:

**The League of Women Voters of Hawaii opposes SB 419, SD 2.** The bill allows a neighborhood board quorum, without public notice, to attend any meeting or presentation which is open to the public without registration or payment of an admission fee. (The bill would not allow a neighborhood board quorum to attend either public or private events which require either registration or an admission fee.)

Developers seeking county land use approvals, businesses seeking county contracts, and ad hoc “NIMBY” groups commonly host free public informational meetings and presentations to advocate their own private special interest. The League does not object to a quorum or even all neighborhood board members **listening or asking questions** at such private meetings or presentations. Our concern with SB 419, SD 2 is that Section 92-82(b), Hawaii Revised Statutes, authorizes all neighborhood board members attending a non-board informational meeting or presentation to participate in discussions of neighborhood board matters, including discussions among themselves, as part of the informational meeting or presentation.

The League believes that discussions of board matters by a neighborhood board quorum should take place, after adequate public notice, at neighborhood board meetings. There is no compelling reason why public notice requirements for quorum discussions of board matters should be different for neighborhood boards than for dozens of other public advisory boards. It also should be pointed out that unlike purely advisory boards, neighborhood boards sometimes assume non-advisory functions. For example, the State Land Use Commission (LUC) has admitted neighborhood boards as parties to LUC contested case hearings, Hawaii courts have allowed neighborhood boards to file and participate in civil actions, and developers have allowed neighborhood boards to select members of private non-profit boards which administer developer-funded charities.

Thank you for the opportunity to present testimony.

THE CIVIL BEAT  
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701  
Honolulu, HI 96813

Office: (808) 531-4000  
Fax: (808) 380-3580  
info@civilbeatlawcenter.org

House Committee on Judiciary  
Honorable Karl Rhoads, Chair  
Honorable Joy A. San Buenaventura, Vice Chair

**RE: Testimony Opposing S.B. 419 S.D. 2, Relating to Neighborhood Boards**  
Hearing: March 27, 2015 at 3:00 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony on S.B. 419 S.D. 2. The Law Center opposes this bill.

S.B. 419 seeks to create a new exception for a quorum or more of neighborhood board members to attend *and participate* in certain outside meetings, such as lobbyist or developer presentations.

The Law Center has no objection to clarifying that a quorum or more of neighborhood board members may attend (*i.e.*, observe and listen) outside meetings under the conditions specified in S.B. 419.

The Law Center objects, however, to stripping board members of any obligation to deliberate publicly. Having accepted the privilege of representing their community, neighborhood board members currently have an obligation under the Sunshine Law to deliberate *as a body* only at a duly noticed board meeting. If S.B. 419 S.D. 2 permits a quorum or more of board members to *participate* in discussions at outside meetings, the exception will swallow the rule.<sup>1</sup>

Without the typical Sunshine protections:

1. The public does not receive advance notice that the neighborhood board will deliberate on board business at an outside meeting. Members of the public who wish to observe board deliberations will be hard pressed to attend every community meeting that might tangentially touch on matters of interest.<sup>2</sup>

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<sup>1</sup> Deliberation at outside meetings is permitted by HRS § 92-82(b), not reprinted with S.B. 419 S.D. 2.

<sup>2</sup> And that assumes that the outside meetings are sufficiently advertised to notify the general public. S.B. 419 S.D. 2 only requires that an outside meeting be free, open to the public, and not organized exclusive for the neighborhood board; **it does not specify a standard for adequate public notice.**



2. The public does not have an opportunity to be heard before the board deliberates. S.B. 419 S.D. 2 is intended to permit board members to discuss board business up to the point of voting.<sup>3</sup> Board members could form a collective opinion based on the limited perspective of the meeting organizer without hearing from other stakeholders.
3. There would be no record of the board's deliberations. S.B. 419 S.D. 2 would authorize the board to hold a Sunshine meeting and simply report: "We discussed this matter at Developer X's community meeting last week. Let's vote."

To the extent the Neighborhood Commission Office or others may claim that the neighborhood boards will not abuse the expansive exception intended by S.B. 419 S.D. 2, Sunshine violations by neighborhood boards in the last five years suggest otherwise:

- Board let developer make presentation, then adjourned without permitting any member of the public to testify, OIP S Memo. 13-6.
- Board refused to permit testimony at some meetings and discriminated in applying testimony limits at other meetings, giving preferential treatment to some testifiers, OIP S Memo. 12-13.
- Board members deliberated on board matters by e-mail, OIP S Memo. 12-12, OIP S Memo. 11-10.
- Board committee failed to prepare any minutes, OIP S Memo. 10-1.

Neighborhood boards are the most basic building block for government decisions, and the easiest forum for members of the general public to become involved in the policy making process. The public is entitled to the fundamental protections provided by the Sunshine Law.

Thank you again for the opportunity to testify.

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<sup>3</sup> S.B. 419 S.D. 2 makes HRS § 92-82 redundant. Both subsections (a) – as amended – and (b) prohibit making a "commitment" to vote. Because subsection (b) already prohibits commitments to vote when board members participate in an outside meeting, the restrictive language in S.B. 419 S.D. 2 is unnecessary.

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Steve Miller	Individual	Support	No

Comments: I am a member of Makiki Neighborhood Board 10 but supporting as an individual. My support in no way should be construed as representing the opinion of the Makiki neighborhood board.

## **JO-ANN M. ADAMS**

411 HOBSON LN #801 ~ HONOLULU, HI 96815

TELEPHONE (808) 528-2100 ~ FACSIMILE: (866) 370-0259 ~ E-MAIL: JMadamsEsq@gmail.com

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To: **COMMITTEE ON JUDICIARY**

Rep. Karl Rhoads, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Rep. Della Au Belatti

Rep. Derek Kawakami

Rep. Gregg Takayama

Rep. Tom Brower

Rep. Chris Lee

Rep. Justin Woodson

Rep. Richard Creagan

Rep. Dee Morikawa

Rep. Bob McDermott

Rep. Mark Hashem

Rep. Mark Nakashima

Rep. Cynthia Thielen

DATE AND TIME: Friday, March 27, 2015, 3:00 p.m.

PLACE: Conference Room 325, State Capitol, 415 South Beretania Street

### **IN STRONG SUPPORT OF SB419 SD2, RELATING TO NEIGHBORHOOD BOARDS**

I am writing, personally, as a member of the Waikiki Neighborhood Board for nearly eight (8) years.

Currently the Sunshine Law currently restricts the attendance of neighborhood board members at free public informational events to less than quorum. The practical effect is that many board members who would like to attend informational meetings are prohibited from doing so.

The current law is silly. As Neighborhood Board Members, each time there is a particularly informative or interesting meeting, we have to take a nose count to make sure that we don't have too many Board members attending! If too many board members want to become better informed through this public meeting, the Chair has to designate which ones may go. The rest are not allowed to attend.

This bill allows more neighborhood board members to various public meetings. SB419 SD2 allow more than a quorum of members to attend a meeting or event that is free, open to the public, and does not require registration to attend, such as, district town halls, city council meetings, and informational meeting for community stakeholders.

SB419 SD2 will allow neighborhood board members to become better informed and to reassure their constituents that they are taking an interest in local issues.

Thank you for this opportunity to testify.

Very truly yours,

Jo-Ann M. Adams

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Oppose	No

Comments: Please accept this as testimony in strong opposition. This is nothing but a blatant attempt to create opaqueness in the Neighborhood Board system. The Neighborhood Boards are the grassroots representative of the people. All they do must be in the open. Not seen as backrooms. The current statute is fine. Neighborhood Board members find it inconvenient. They should follow the law instead of looking at ways to circumvent it. The bill does not state whether the Neighborhood Board members can talk at these meetings. Their opinions need to remain silent until the matter comes up at a Neighborhood Board meeting. That will not happen if this bill, introduced at the instigation of Mayor Caldwell passes. Current law provides that if Neighborhood Board members but less than a quorum attend outside meetings they must report at the next Neighborhood Board meeting that they attended the meeting and what transpired. There is no reference to that anywhere in this ill advised measure. The effective date of 2050 should be changed to NEVER. This bill should die at Judiciary. lynne matusow, 60 n. beretania, #1804, honolulu 96817

Submitted By	Organization	Testifier Position	Present at Hearing
Antya Miller	Individual	Support	No

Comments: Aloha, I am a Neighborhood Board (NB) member on the North Shore Board #27. It is very frustrating to be on a NB and not be able to attend public meetings without fear of breaking the Sunshine Law in its current form. Examples of public meetings where this has been a problem are: Oahu Metropolitan Planning Organization, Board of Water Supply planning meetings, Wastewater planning meetings, and meetings held in the district by our elected officials such as the Mayor, Council and State reps, etc. As a NB member, we need to attend these meetings to obtain information and be current on issues affecting our constituency. We should also be allowed to fully participate in them as community leaders. Limiting our ability to participate in public forums is not serving the public well. Please support this bill as recommended by the NCO: "We ask the committee to clarify the intent of this measure by including the following amendment: [§9282] Permitted interactions of neighborhood board members. (a) Without limitation on the number of members, neighborhood board members may attend meetings or presentations on matters relating to official board business that are open to the public and do not charge a fee or require registration; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the neighborhood board and that no member makes a commitment to vote on any of the issues discussed. This measure is the result of consistent and widespread complaints regarding the inability of neighborhood board members to attend informational events due to the effects of the Sunshine Law on neighborhood boards, which remain purely advisory in nature and are disallowed from taking any legislative action. At present, the Sunshine Law currently restricts to less than a quorum the attendance of neighborhood board members at free informational events that are open to the public. Despite the mission of the Neighborhood Board system, current state law excludes many board members who would like to attend informational meetings. S.B. No. 419 SD2 will bolster participation of neighborhood board members at a time when civic engagement matters most." Thank you for your consideration of this testimony. Mahalo, Antya Miller

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Zahn	Individual	Oppose	No

Comments: Strongly oppose.

Testimony on S.B. No. 419 SD2, RELATING TO NEIGHBORHOOD BOARDS

March 26, 2015

Dear Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

I am Michael Dwyer, member of the Aiea Neighborhood Board, writing in VERY STRONG SUPPORT of S.B. No. 419 SD2 that allows neighborhood board members to attend certain meetings under certain circumstances.

S.B. No. 419 SD2 creates a new permitted interaction for neighborhood board members that would allow more than a quorum of members to attend a meeting or event of another entity that is free, open to the public, and does not require registration to attend. Examples of such a meeting or event include but are not limited to a district town hall, a city council meeting, and an event designed to inform community stakeholders.

We ask the committee to clarify the intent of this measure by including the following amendment:

**[§9282] Permitted interactions of neighborhood board members.** (a) Without limitation on the number of members, neighborhood board members may attend meetings or presentations on matters relating to official board business that are open to the public and do not charge a fee or require registration; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the neighborhood board and that no member makes a commitment to vote on any of the issues discussed.

This measure is the result of consistent and widespread complaints regarding the inability of neighborhood board members to attend informational events due to the effects of the Sunshine Law on neighborhood boards, which remain purely advisory in nature and are disallowed from taking any legislative action. At present, the Sunshine Law currently restricts to less than a quorum the attendance of neighborhood board members at free informational events that are open to the public. Despite the mission of the Neighborhood Board system, current state law excludes many board members who would like to attend informational meetings. This issue is discussed by the Aiea Neighborhood Board each time an informational event, such as rail stations or traffic activities planned, is advertised. The criticism is always the same when the chair must announce who would like to attend but only seven may go. Frequently more than seven want to attend but some are disenfranchised by the current Sunshine Law.

S.B. No. 419 SD2 will bolster participation of neighborhood board members at a time when civic engagement matters most.

Thank you for your consideration and this opportunity to testify.

Michael Dwyer, Member Aiea Neighborhood Board



Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner (NB#11 vice chair)	Individual	Support	No

Comments: I am the current vice chair of the 11th NB (Kakaako - Ala Moana) and I support this measure as an individual since our neighborhood board has not taken a formal stance on bill 419.

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kathleen M Pahinui	Individual	Support	No

Comments: Aloha - As a neighborhood board member, I support the testimony as submitted by Executive Secretary Nicole Velasco. Many times community briefings are given by government officials and businesses and we are limited to the number of board members who are allowed to attend under the current rules. This defeats the purpose of board members being able to effectively represent their areas on important issues. Please support SB419. Mahalo, Kathleen M Pahinui North Shore

**LATE**

Submitted By	Organization	Testifier Position	Hearing
Jonathan Hanks	Individual	Support	No

Comments: I am a Kaneohe Neighborhood Board #30 Member. My Sub- district is #13, Mikiola Mauka. I am in strong support of this Measure